

# EXHIBIT A

**225th District Court****Case Summary****Case No. 2021CI13526****Nicki Jo Harlan VS AMERIGAS PROPANE, LP. ET AL****§****§****§**Location: **225th District Court**Judicial Officer: **225th, District Court**Filed on: **07/06/2021****Case Information**Case Type: **MOTOR VEHICLE  
ACCIDENT**Case Status: **07/06/2021 Pending****Assignment Information****Current Case Assignment**

Case Number **2021CI13526**  
 Court **225th District Court**  
 Date Assigned **07/06/2021**  
 Judicial Officer **225th, District Court**

**Party Information***Lead Attorneys*

**Plaintiff** **Harlan, Nicki Jo** **DE LA GARZA, ANDREA**  
*Retained*

**Defendant** **AMERIGAS PROPANE, LP.** **GIBSON, ETHAN G**  
*Retained*

**AMERIGAS USA LLC.**

**AMERIGAS, INC.** **GIBSON, ETHAN G**  
*Retained*

**Events and Orders of the Court**

07/06/2021 New Cases Filed (OCA)

07/06/2021 PETITION

07/06/2021 JURY FEE PAID

07/21/2021 **Citation**

AMERIGAS PROPANE, LP.  
 Served: 07/22/2021  
 AMERIGAS, INC.  
 Served: 07/22/2021  
 AMERIGAS USA LLC.  
 Unserved

07/22/2021 RETURN OF SERVICE - SUCCESSFUL  
*AMERIGAS PROPANE LP*07/22/2021 RETURN OF SERVICE - SUCCESSFUL  
*AMERIGAS INC*

08/09/2021 MOTION FOR

**Case Summary**

**Case No. 2021CI13526**

*SUBSTITUTED SERVICE*

08/16/2021 ORIGINAL ANSWER OF  
*AMERIGAS PROPANE, L.P. & AMERIGAS, INC.*

**2021CI13526**  
**CAUSE NO. \_\_\_\_\_**

<b>NICKI JO HARLAN</b>	§	<b>IN THE DISTRICT COURT</b>
<b>Plaintiff</b>	§	
	§	Bexar County - 225th District Court
	§	
<b>VS.</b>	§	<b>JUDICIAL DISTRICT</b>
	§	
<b>AMERIGAS PROPANE, LP.,</b>	§	
<b>AMERIGAS, INC., and AMERIGAS</b>	§	
<b>USA LLC</b>	§	
<b>Defendants.</b>	§	<b>BEXAR COUNTY, TEXAS</b>

**PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES NICKI JO HARLAN, Plaintiff herein complaining of and against AMERIGAS PROPANE, LP, AMERIGAS, INC., and AMERIGAS USA LLC, Defendants herein, and would show the Court as follows:

**I.**  
**DISCOVERY**

Discovery in this case is intended to be conducted under Level 3 of the Texas Rules of Civil Procedure.

**II.**  
**PARTIES**

Plaintiff NICKI JO HARLAN is an individual who resides in Bexar County, Texas.

Defendant AMERIGAS PROPANE, LP. is a Foreign Limited Partnership. Its registered address is 460 N. Gulph Road, King of Prussia, PA 19406. It may be served with process through its registered agent, Prentice Hall Corporation System, 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 77701. Service of said Defendant as described above can be effected by private process server.

Defendant AMERIGAS, INC. is a Foreign For-Profit Corporation. Its registered address is

100 Kachel Blvd., Suite 300, Reading, PA 19607. It may be served with process through its registered agent, Prentice Hall Corporation System, 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 77701. Service of said Defendant as described above can be effected by private process server.

Defendant AMERIGAS USA LLC. is a Domestic Limited Liability Company. Its registered address is 1212 Singleton Blvd. #4080, Dallas, Texas 75212. It may be served with process through its registered agent, Pablo Trinidad, 1212 Singleton Blvd. #4080, Dallas, Texas 75212. Service of said Defendant as described above can be effected by private process server.

**III.  
VENUE**

Venue of this case is proper in Bexar County, Texas pursuant to § 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events in question occurred here.

**IV.  
MISNOMER/MISIDENTIFICATION**

In the event any parties are misnamed or are not included herein, it is Plaintiff's contention that such was a "misidentification," "misnomer" and/or such parties were "alter egos" of parties named herein. Alternatively, Plaintiff contends that such "corporate veils" should be pierced to hold such parties properly included in the interest of justice.

**V.  
FACTUAL BACKGROUND**

This incident occurred on January 2, 2020 while Plaintiff was working for Uhaul at 12534 Nacogdoches Road, San Antonio, Texas. On this day, Plaintiff was filling a customer's RV propane tank, using the propane and propane pump supplied and controlled by Defendants,

when propane began to leak onto her gloved hands. Plaintiff's hands immediately began to burn, swell, and blister, ultimately resulting in second-degree burns. Defendants' failure to provide the proper adaptor for the propane pump, provide proper gloves, and provide proper training caused Plaintiff to suffer the aforementioned injuries.

**VI.**  
**NEGLIGENCE CAUSE OF ACTION**

On the date of the occurrence made the basis of this suit, Plaintiff's injuries and damages were proximately caused by the negligent conduct of Defendants.

The following acts or omissions on the part of Defendants constituted negligence:

- a. In failing to provide the proper adapter for the propane pump involved in the subject incident;
- b. In failing to provide proper gloves for use with its propane pumps;
- c. In failing to provide proper training with regard to the operation of its propane pumps;
- d. In failing to adequately train its employees on safety;
- e. In failing to properly educate, instruct, and supervise its employees in the performance of their duties;
- f. In failing to establish and enforce safety rules and regulations;
- g. Failure of its employees to follow safe work practices; and
- h. In failing to provide proper safety manual and instructions to employees responsible for safety.

At the time of the occurrence of the act in question and immediately prior thereto, the Defendants' agents, representatives and/or employees who were negligent were in the course and scope of their employment for said Defendants and/or acting under the direction and control of

Defendants.

Plaintiff invokes the doctrine of Respondeat Superior against Defendants.

**VII.**  
**DAMAGES**

As a proximate result of the negligence of the Defendants as described above, Plaintiff has suffered and incurred and will continue to suffer and incur in the future the following damages:

1. Reasonable medical care and expenses in the past;
2. Reasonable and necessary medical care and expenses which will, in all reasonable probability, be incurred in the future;
3. Physical pain and suffering in the past;
4. Physical pain and suffering, which, in all reasonable probability, will be suffered in the future;
5. Mental anguish suffered in the past;
6. Mental anguish, which, in all reasonable probability, will be suffered in the future;
7. Physical impairment in the past;
8. Physical impairment which, in all reasonable probability, will be suffered in the future; and,
9. Disfigurement.

Plaintiff has suffered damages in an amount within the jurisdictional limits of this Court.

Pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiff in good faith pleads the value of this case is over two hundred and fifty thousand dollars (\$250,000.00) but less than one million dollars (\$1,000,000.00).

**VIII.**  
**DEMAND FOR JURY TRIAL**

Plaintiff demands a jury trial in this above styled and numbered cause.

**PRAYER**

**PREMISES CONSIDERED**, Plaintiff, respectfully prays that the Defendants be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendants for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,  
**THE AGUIRRE LAW FIRM, PLLC**  
118 E. Ashby Pl.  
San Antonio, Texas 78212  
210.922.0808 t  
210.922.0813 f

/s/ Andrea De La Garza  
**ALEX AGUIRRE**  
Texas Bar No. 24012194  
[aaguirre@aguirrelawpllc.com](mailto:aaguirre@aguirrelawpllc.com)  
**ANDREA DE LA GARZA**  
Texas Bar No. 24077955  
[adelagarza@aguirrelawpllc.com](mailto:adelagarza@aguirrelawpllc.com)

Mary Angie Garcia

Bexar County District Clerk

Accepted By: Stephanie West

Bexar County - 225th District Court

PRIVATE PROCESS

Case Number: 2021CI13526

Nicki Jo Harlan VS AMERIGAS PROPANE, LP. ET AL

(Note: Attached Document May Contain Additional Litigants)

IN THE 225TH DISTRICT COURT

BEXAR COUNTY, TEXAS

CITATION

"THE STATE OF TEXAS"

Directed To: **AMERIGAS INC**  
**BY SERVING ITS REGISTERED AGENT PRENTICE HALL CORPORATION SYSTEM**

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00am on the Monday next following the expiration of twenty days after you were served this CITATION and PETITION a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org" Said **PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND** was filed **6th day of July, 2021.**

ISSUED UNDER MY HAND AND SEAL OF SAID COURT 21st day of July, 2021.

ANDREA DE LA GARZA  
ATTORNEY OF PLAINTIFF  
118 E ASHBY  
SAN ANTONIO TX 78212-1142



Mary Angie Garcia  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205

By: /s/ Annabelle Kung  
Annabelle Kung, Deputy

NICKI JO HARLAN VS AMERIGAS PROPANE, LP. ET AL

Case Number: 2021CI13526

225th District Court

**Officer's Return**

I received this CITATION on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_M. and ( ) executed it by delivering a copy of the CITATION with attached PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND the date of delivery endorsed on it to the defendant \_\_\_\_\_ in person on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M. at \_\_\_\_\_ or ( ) not executed because \_\_\_\_\_.

Fees: \_\_\_\_\_ Badge/PPS #: \_\_\_\_\_ Date certification expires: \_\_\_\_\_

County, Texas

BY: \_\_\_\_\_

OR: VERIFICATION OF RETURN (If not served by a peace officer) SWORN TO THIS \_\_\_\_\_

**NOTARY PUBLIC, STATE OF TEXAS**

OR: My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_  
County.

I declare under penalty of perjury that the foregoing is true and correct. Executed in \_\_\_\_\_ County, State of Texas, on the  
day of \_\_\_\_\_, A.D., \_\_\_\_\_.

**Declarant**

**AFFIDAVIT OF SERVICE****State of Texas****County of Bexar****225th District Court**

Case Number: 2021CI13526

Plaintiff:

**NICKI JO HARLAN**

vs.

Defendant:

**AMERIGAS PROPANE, LP.,  
AMERIGAS, INC., and AMERIGAS  
USA LLC**

For:

ANDREA DE LA GARZA  
The Aguirre Law Firm  
118 E ASHBY PL  
SAN ANTONIO, TX 78212

BBW2021007578

Received by Mike Techow on the 21st day of July, 2021 at 4:51 pm to be served on **AMERIGAS INC BY SERVING ITS REGISTERED AGENT PRENTICE HALL CORPORATION SYSTEM, 211 E. 7th STREET, STE 620, AUSTIN, TX 78701**.I, Mike Techow, being duly sworn, depose and say that on the **22nd day of July, 2021 at 9:20 am, I:**served a **CORPORATION** by delivering a true copy of the **CITATION / PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND** with the date and hour of service endorsed thereon by me, to: **Samantha Guerra, PRENTICE HALL CORPORATION SYSTEM** as **Authorized Agent**, at the address of: **211 E. 7th STREET, STE 620, AUSTIN, TX 78701**, and informed said person of the contents therein, in compliance with state statutes.

My name is Mike Techow. My date of birth is 6/26/1972. My work address is 809 Nueces, Austin, TX 78701. I declare under penalty of perjury that the foregoing is true and correct. Executed in Travis County on July 22nd, 2021 by Mike Techow, declarant.

---

**Mike Techow**  
PSC-1215, Exp. 7/31/2022

**Pronto Process (San Antonio)**  
P.O. Box 7819  
San Antonio, TX 78207  
(210) 226-7192

Our Job Serial Number: BBW-2021007578

Case Number: 2021CI13526

Nicki Jo Harlan VS AMERIGAS PROPANE, LP. ET AL

(Note: Attached Document May Contain Additional Litigants)

IN THE 225TH DISTRICT COURT

BEXAR COUNTY, TEXAS

CITATION

"THE STATE OF TEXAS"

Directed To: **AMERIGAS PROPANE LP**  
**BY SERVING ITS REGISTERED AGENT PRENTICE HALL CORPORATION SYSTEM**

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00am on the Monday next following the expiration of twenty days after you were served this CITATION and PETITION a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org" Said **PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND** was filed **6th day of July, 2021.**

ISSUED UNDER MY HAND AND SEAL OF SAID COURT 21st day of July, 2021.

ANDREA DE LA GARZA  
ATTORNEY OF PLAINTIFF  
118 E ASHBY  
SAN ANTONIO TX 78212-1142



Mary Angie Garcia  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205

By: /s/ Annabelle Kung  
Annabelle Kung, Deputy

NICKI JO HARLAN VS AMERIGAS PROPANE, LP. ET AL

Case Number: 2021CI13526

225th District Court

**Officer's Return**

I received this CITATION on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_M. and ( ) executed it by delivering a copy of the CITATION with attached PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND the date of delivery endorsed on it to the defendant \_\_\_\_\_ in person on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M. at \_\_\_\_\_ or ( ) not executed because \_\_\_\_\_.

Fees: \_\_\_\_\_ Badge/PPS #: \_\_\_\_\_ Date certification expires: \_\_\_\_\_

County, Texas

BY: \_\_\_\_\_

OR: VERIFICATION OF RETURN (If not served by a peace officer) SWORN TO THIS \_\_\_\_\_

**NOTARY PUBLIC, STATE OF TEXAS**

OR: My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_  
County.

I declare under penalty of perjury that the foregoing is true and correct. Executed in \_\_\_\_\_ County, State of Texas, on the  
day of \_\_\_\_\_, A.D., \_\_\_\_\_.

Declarant

**AFFIDAVIT OF SERVICE**

State of Texas

County of Bexar

225th District Court

Case Number: 2021CI13526

Plaintiff:

**NICKI JO HARLAN**

vs.

Defendant:

**AMERIGAS PROPANE, LP.,  
AMERIGAS, INC., and AMERIGAS  
USA LLC**

For:

ANDREA DE LA GARZA  
The Aguirre Law Firm  
118 E ASHBY PL  
SAN ANTONIO, TX 78212

BBW2021007139

Received by Mike Techow on the 21st day of July, 2021 at 4:50 pm to be served on **AMERIGAS PROPANE, LP BY SERVING ITS REGISTERED AGENT PRENTICE HALL CORPORATION SYSTEM, 211 E. 7th STREET, STE 620, AUSTIN, TX 78701**.

I, Mike Techow, being duly sworn, depose and say that on the **22nd day of July, 2021 at 9:20 am, I:**

served a **CORPORATION** by delivering a true copy of the **CITATION / PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND** with the date and hour of service endorsed thereon by me, to: **Samantha Guerra, PRENTICE HALL CORPORATION SYSTEM** as **Authorized Agent**, at the address of: **211 E. 7th STREET, STE 620, AUSTIN, TX 78701**, and informed said person of the contents therein, in compliance with state statutes.

My name is Mike Techow. My date of birth is 6/26/1972. My work address is 809 Nueces, Austin, TX 78701. I declare under penalty of perjury that the foregoing is true and correct. Executed in Travis County on July 22nd, 2021 by Mike Techow, declarant.

---

**Mike Techow**  
PSC-1215, Exp. 7/31/2022

**Pronto Process (San Antonio)**  
**P.O. Box 7819**  
**San Antonio, TX 78207**  
**(210) 226-7192**

Our Job Serial Number: BBW-2021007139

**CAUSE NO. 2021CI3526**

**NICKI JO HARLAN  
Plaintiff,**

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**IN THE DISTRICT COURT**

vs.

## **225th JUDICIAL DISTRICT**

**AMERIGAS PROPANE, LP.,  
AMERIGAS, INC., and AMERIGAS  
USA LLC  
Defendants.**

## **BEXAR COUNTY, TEXAS**

## **PLAINTIFF'S MOTION FOR SUBSTITUTED SERVICE**

**TO THE HONORABLE JUDGE OF SAID COURT:**

**NOW COMES**, Plaintiff, NICKI JO HARLAN, and brings this Motion for Substituted Service pursuant to Tex. R. Civ. P. 106, and in support thereof, shows the court the following:

I.

Attempts to serve process on Defendant, AMERIGAS USA LLC, as set out in the affidavit attached hereto and incorporated by reference herein (a true and correct copy of which is attached hereto as "Exhibit A" and is incorporated by reference).

II.

Reasonably effective notice of the suit may be given to the Defendant, AMERIGAS USA LLC, by having a person authorized by Tex. R. Civ. P. 103 leave a copy of the citation, with a copy of the petition and a copy of this order attached, with any person 16 years of age

or older, or by posting same on the front door or gate at the Defendant, AMERIGAS USA LLC's registered agent's address for service at **2225 N Harwood St., Apt 706, Dallas, TX 75201.**

**WHEREFORE, PREMISES CONSIDERED,** Movants pray that the Court grants this Motion for Substituted Service, and for such other and further relief that may be awarded at law or in equity.

Respectfully submitted,

**THE AGUIRRE LAW FIRM, PLLC.**

  
ALEX AGUIRRE  
State Bar No. 24012194  
[aaguirre@aguirrelawpllc.com](mailto:aaguirre@aguirrelawpllc.com)  
ANDREA DE LA GARZA  
State Bar No. 24077955  
[adelagarza@aguirrelawpllc.com](mailto:adelagarza@aguirrelawpllc.com)  
118 E. Ashby  
San Antonio, Texas 78212  
(210) 922-0808 voice  
(210) 922-0813 facsimile  
**ATTORNEY FOR PLAINTIFF**

**Affidavit in Support of Motion for Substitute Service**

**State of Texas**

**County of Bexar**

**225th District Court**

Case Number: 2021CI13526



BBW2021007580

Plaintiff:

**NICKI JO HARLAN**

vs.

Defendant:

**AMERIGAS PROPANE, LP.,  
AMERIGAS, INC., and AMERIGAS  
USA LLC**

Received by Scott W Hickman on the 21st day of July, 2021 at 3:46 pm to be served on **AMERIGAS USA LLC BY SERVING ITS REGISTERED AGENT PABLO TRINIDAD, 1212 SINGLETON BLVD, #4080, DALLAS, TX 75212.**

I, Scott W Hickman, do hereby affirm that on the **3rd day of August, 2021 at 10:26 am**, I:

deemed it impractical to personally deliver the CITATION / PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND to the registered agent for the named defendant **AMERIGAS USA LLC** in the above numbered and styled cause. I have attempted to make personal delivery to the registered agent **PABLO TRINIDAD** at the place where the registered agent can probably be found, being **2225 N HARWOOD ST APT 706, DALLAS, TX 75201** which was established personally in my efforts.

I believe the defendant **AMERIGAS USA LLC** can and will be given notice of these proceedings by leaving a copy of the CITATION / PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND with anyone older than sixteen at the location specified in the statement at the place where the defendant can probably be found being or by attaching the above mentioned documents to the front entrance/gate the place where the defendant can probably be found ; or in any other manner, including electronically by social media, email, or other technology, that the statement or other evidence shows will be reasonably effective to give the defendant **AMERIGAS USA LLC** notice of the suit.

**Additional Information pertaining to this Service:**

7-27-21 2:00 PM Attempted new address of 2225 N HARWOOD ST APT 706, DALLAS, TX 75201 I approached the Security at the Front desk. Explained I had delivery for Pablo Trinidad in Apt. 706. They would not allow me to go up until they called and got permission for me to go up from Trinidad. There was no answer of the phone.

7/28/21 @ 7:15 pm attempted service at 2225 N HARWOOD ST APT 706, DALLAS, TX 75201. I approached Security at the Front desk, told them I was there for Pablo Trinidad in apt. 706, they called the apartment and there was no answer of the phone at the apt. and they would not let me go up to knock on door.

7/30/2021 1:38 pm I called target on the phone, and spoke to a male who identified himself to be Pablo Trinidad. I asked if we could meet at his residence or any other local place so I could deliver the court documents I had for him. He refused to meet me and ask me to contact his attorney. He gave me the information of his attorney.

Steven Schafer  
214-789-8074

8-3-21 @ 9:53 am. 2225 n. Harwood st. apt. 706, Dallas, Tx 75201. When I arrived and explained that I was there to speak to Pablo Trinidad in apt. 706. Security allowed me to pass and go to the apartment

**Affidavit in Support of Motion for Substitute Service For 2021CI13526**

to knock on the door. There was no answer at his apartment.

"My name is Scott W. Hickman my date of birth is 2/1/1983 and my address is 2310 N Henderson Ave, #632, Dallas, TX 75206. I declare under penalty of perjury that the foregoing is true and correct. Executed in Dallas County, State of Texas on the 06 Day of August, 2021, Scott W. Hickman declarant."



Scott W Hickman  
PSC-616 6/30/2023

Pronto Process  
1406 W Salinas  
San Antonio, TX 78207  
(210) 226-7192

Our Job Serial Number: BBW-2021007580

**CAUSE NO. 2021CI13526****NICKI JO HARLAN***Plaintiff,*

v.

**AMERIGAS PROPANE, LP., AMERIGAS,  
INC., AND AMERIGAS USA LLC***Defendants.***IN THE DISTRICT COURT OF****225<sup>TH</sup> JUDICIAL DISTRICT****BEXAR COUNTY, TEXAS****DEFENDANTS AMERIGAS PROPANE, L.P. AND AMERIGAS, INC.'S ORIGINAL  
ANSWER**

Defendants AmeriGas Propane, L.P. and AmeriGas, Inc. ("Defendants") respectfully file this Original Answer and Affirmative Defenses and in support thereof would respectfully show as follows:

**I. GENERAL DENIAL**

Defendants deny each and every one of the allegations Plaintiff has made against them in this lawsuit and demand strict proof of those allegations sufficient to meet the applicable burden of proof.

**II. AFFIRMATIVE DEFENSES**

Defendants assert the following defenses affirmatively, without prejudice to any contention regarding the burden of proof at trial or hearing:

1. Plaintiff's claims against Defendants are barred, in whole or in part, because Plaintiff's damages were caused by the acts, omissions, failures, and/or negligence of other parties, responsible parties, or third parties over whom Defendants had no control.

2. Plaintiff's claims are barred, in whole or in part, because Plaintiff's injury or loss occurred as the proximate result of some independent intervening cause that Defendants could not reasonably have foreseen, and over which Defendants did not exercise any authority or control.

3. Defendants plead the doctrine of Comparative Fault, Proportionate Liability and Contribution. Specifically, Defendants invoke their right to instruct the jury on comparative fault, proportionate liability, and contribution under Texas Civil Practice & Remedies Code §§ 32, 33 and 41. Defendants affirmatively assert that Plaintiff's injuries were caused by her own actions and lack of requisite care, whether in whole or in part, under proportionate liability and contribution under the Texas Civil Practice and Remedies Code Chapters 32, 33, and 41, and all applicable damages caps under Texas law; and

4. To the extent that Plaintiff is seeking punitive damages, Defendants invoke all applicable limitations on the award of punitive damages. Specifically, Defendants affirmatively invoke their right to each and every limitation on the award of punitive damages found in the United States and/or Texas Constitution(s), along with any statutory damage limitations, including those found in Chapter 41 of the Texas Civil Practice and Remedies Code.

### **III. PRAYER**

WHEREFORE, Defendants respectfully request that this Court render judgment that upon trial, Plaintiff takes nothing by this action, Defendants recover their costs of court, and Defendants have such other and further relief, general and special, legal and equitable, to which they may show themselves to be justly entitled.

Respectfully submitted,

*/s/ Ethan G. Gibson*

---

Ethan G. Gibson  
Texas State Bar No. 24073131  
[ethan@gibsonwunder.com](mailto:ethan@gibsonwunder.com)  
Victoria R. Mery  
Texas State Bar No. 24094845  
[vmery@gibsonwunder.com](mailto:vmery@gibsonwunder.com)  
**Gibson | Wunder, P.C.**  
4 Houston Center  
1221 Lamar St., Suite 1001  
Houston, Texas 77010  
Phone: 713.897-8008  
Facsimile: 713-897-8007

ATTORNEYS FOR DEFENDANTS  
AMERIGAS PROPANE, L.P. AND AMERIGAS,  
INC.

**CERTIFICATE OF SERVICE**

The undersigned certifies a true and correct copy of the foregoing document was served upon all parties of record listed below in accordance with the Texas Rules of Civil Procedure via the electronic filing system, on August 16, 2021.

Alex Aguirre  
Andrea De La Garza  
The Aguirre Law Firm, PLLC  
118 East Ashby Place  
San Antonio, Texas 78212  
[aaguirre@aguirrelawllc.com](mailto:aaguirre@aguirrelawllc.com)  
[adelagarza@aguirrelawllc.com](mailto:adelagarza@aguirrelawllc.com)

*/s/ Ethan G. Gibson*

---

Ethan G. Gibson

### **Automated Certificate of eService**

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Ethan Gibson on behalf of Ethan Gibson  
 Bar No. 24073131  
 ethan@gibsonwunder.com  
 Envelope ID: 56325017  
 Status as of 8/17/2021 11:21 AM CST

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Alexander Kykta		alex@gibsonwunder.com	8/16/2021 9:47:12 AM	SENT
Brian Wunder		brian@gibsonwunder.com	8/16/2021 9:47:12 AM	SENT
Emily Gilmore		egilmore@gibsonwunder.com	8/16/2021 9:47:12 AM	SENT
Ethan Gibson		Ethan@gibsonwunder.com	8/16/2021 9:47:12 AM	SENT
Maggie Johnson		mjohnson@gibsonwunder.com	8/16/2021 9:47:12 AM	SENT
Margi Dyer		mdyer@gibsonwunder.com	8/16/2021 9:47:12 AM	SENT
Victoria Mery		vmery@gibsonwunder.com	8/16/2021 9:47:12 AM	SENT
Alejandro Aguirre	24012194	aaguirre@aguirrelawpllc.com	8/16/2021 9:47:12 AM	SENT
Andrea De La Garza	24077955	adelagarza@aguirrelawpllc.com	8/16/2021 9:47:12 AM	SENT